

Minutes of the Planning Commission meeting held on Thursday, February 19, 2009, at 6:30 p.m. in the Murray City Municipal Council Chambers, 5025 South State Street, Murray, Utah.

Present: Jeff Evans, Chair
 Jim Harland, Vice-Chair
 Ray Black
 Karen Daniels
 Kurtis Aoki
 Tim Taylor
 Tim Tingey, Community & Economic Development Director
 Chad Wilkinson, Community Development Planner
 G.L. Critchfield, Deputy City Attorney
 Citizens

Excused: Sheri Van Bibber

The Staff Review meeting was held from 6:00 to 6:30 p.m. The Planning Commission members briefly reviewed the applications on the agenda. An audio recording of this is available at the Murray City Community and Economic Development Department.

Jeff Evans opened the meeting and welcomed those present.

APPROVAL OF MINUTES

Karen Daniels made a motion to approve the minutes from February 5, 2009. Seconded by Tim Taylor.

A voice vote was made. The minutes were approved unanimously, 6-0.

CONFLICT OF INTEREST

Karen Daniels stated that she has done business with the applicant for item #5, Sterling Tholen, in the past. They are not currently doing business on the project presented at this meeting. Ms. Daniels stated that there is no financial gain for her vote or decision either way.

APPROVAL OF FINDINGS OF FACT

Tim Taylor stated that the Findings of Fact related to a Conditional Use Permit for Stone Muscle Cars was submitted with his name as the Chair. It should be changed to read Jeff Evans, Chair.

Tim Taylor made a motion to approve the Findings of Fact related to a Conditional Use Permit for Stone Muscle Cars, located at 4792 Plum Street. Seconded by Karen Daniels.

A voice vote was made. The Findings of Fact was approved unanimously, 6-0.

A O ADVENTURE GEAR, INC. – 4893 South Commerce Drive, #E

Michael Orgera was the applicant present to represent this request. Chad Wilkinson reviewed the location and request for a Conditional Use Permit. The request is for a 6 month temporary Conditional Use Permit for the storage of metal containers that are currently being used to house goods that are being distributed to other retailers for sale. There are two properties involved in the application. The property is located in the M-G-C zoning district. Staff has reviewed the request and is recommending approval for the temporary Conditional Use Permit, with 6 months being the limit with no extensions.

Jeff Evans asked if it is legal to put a cap on extensions. Chad Wilkinson stated that the cap is a staff recommendation, that the code allows for extensions, but it is at the Planning Commission's discretion.

Jim Harland asked why a cap is being recommended. Chad Wilkinson responded that the applicant has already had the containers on site for several months. They should be able to find a permanent solution within the next 6 months. The code directs that this type of use should only be approved on the basis of moving toward a permanent structure. Mr. Harland asked if the normal period of time for a temporary Conditional Use Permit is 12 months. Mr. Wilkinson responded that it is 6 months.

Kurtis Aoki asked if Chad Wilkinson knew what was inside the containers. Mr. Wilkinson responded that there is clothing, mostly sport-type gear that is similar to what is sold at REI.

Michael Orgera, 4893 South Commerce Drive, #E, stated that he has been at this location for nine years under the business name A O Specialty Chemicals. He recently attended an outdoor show where he met a representative of Australian Merino Wool Company. He was interested in getting involved with the company, and was approved to be the U.S. distributor. His landlord had advised him previously that there is a large area on the lot that is fenced-in, where it is legal to house containers. When he placed the containers on the property he had them painted gray so that they'd fit in and look nice as they were previously yellow. He then learned that the adjoining property owner claimed ownership of a small portion of the property. The two owners have been arguing over this small piece of land.

Mr. Orgera would like to request that the 6 month cap be left open to extensions. His warehouse is currently full of cleaning supplies and that business continues to grow. He pays taxes each quarter, and stated that Murray gets its fair share of that money. He doesn't know if he'll be able to free up enough space inside his warehouse by August. If he cannot extend the Conditional Use Permit he will move his businesses.

Mr. Evans stated that as a businessman, he too has been enthusiastic about new products. However, the commission doesn't take into consideration what is being stored in the containers. Mr. Aoki added that the commission must follow the law. He asked how many months Mr. Orgera was asking for when he talked about an extension. Mr.

Orgera stated that he plans on having everything out of the containers by the time the snow flies.

Kurtis Aoki asked if any of the chemicals related to the cleaning business were housed in those containers. Mr. Orgera responded that they are not.

Karen Daniels asked about Mr. Orgera's long range goals and if he plans on getting a new space. Mr. Orgera responded that he is currently negotiating with a large regional supply company that sells cleaning products. By June or July he anticipates transitioning his accounts over to this other company, which would warehouse all of the supplies. He would then have space to bring the contents of the containers into his warehouse and remove the containers from the property. He stated that a company across the street also participates in the outdoor shows, and has containers on their property.

Jeff Evans asked Michael Orgera if he has reviewed the conditions recommended by staff. Mr. Orgera responded that he has. Mr. Evans asked what date Mr. Orgera believed he would be ready to remove the containers. Mr. Orgera responded that he'd like until the end of October.

Robert Azarvand, 219 West 4860 South, made a public comment. He stated that his property is near Mr. Orgera's, and that he supports Mr. Orgera's business. He would like to see 2 additional conditions added before approval. The first would be a limit on the number of storage containers allowed on the property, and secondly to not allow the containers to be stacked on one another. Tim Taylor responded that the Temporary Conditional Use Permit is only for 2 containers.

There were no additional public comments.

Kurtis Aoki asked Chad Wilkinson what will happen if the applicant returns in 6 months and asks for an extension. Mr. Wilkinson responded that it is an option to extend the time period.

Jeff Evans asked if code requires extensions to be made in 6 month increments. Mr. Wilkinson responded that the code states the original Conditional Use Permit is for 6 months, and that the Commission can grant 6 month extensions. Mr. Evans questioned if the extension could be granted for 2 months instead of 6. Mr. Wilkinson responded that the Code reads up to 6 month extensions, so it is possible that the commission can grant an extension for 2 months.

Kurtis Aoki asked how this condition should be stated. Jeff Evans stated that it should be noted that the applicant has stated he anticipates removal of the containers by October 19th. Chad Wilkinson responded that condition #3 could be removed, which leaves the extensions open to the Code requirements.

Jeff Evans asked the Commission if condition #3 should be removed. Discussion was held that reviewed the issues pertaining to limiting the number of extensions available. It was determined that if Mr. Orgera needed to request another extension, he would need to reappear before the commission.

Jeff Evans asked Mr. Azarvand if he would have concerns about extending the amount of time the containers were on the property. Mr. Azarvand stated that it would be a concern because if Mr. Orgera's business is doing as well as he claims it shouldn't take 6 months to find a permanent place for the merchandise. He pointed out that the containers have already been there for several months. He realizes that it is cheaper to run a business using storage containers, however there is currently plenty of storage space available. Tim Taylor stated that Mr. Orgera had previously said he was 99% sure that he could work with the 6 month time frame.

Tim Taylor made a motion to grant the Temporary Conditional Use Permit to A O Adventure Gear, 4893 South Commerce Drive #E, for two storage containers, and subject to the following conditions:

1. The project shall meet all applicable building code standards.
2. The project shall meet all current fire codes.
3. The storage containers shall be removed within 6 months of the date of approval. No extensions shall be available. The containers shall be removed from the property no later than August 19, 2009.

Seconded by Karen Daniels.

Call vote recorded by Tim Tingey.

A Mr. Taylor
A Ms. Daniels
A Mr. Black
A Mr. Evans
A Mr. Harland
A Mr. Aoki

Motion passed, 6-0.

STRATLER SUBDIVISION AMENDED – 5935, 5941, 5947 South Stratler Street

Sterling Tholen was the applicant present to represent this request. Chad Wilkinson reviewed the location and amendment to the Stratler Subdivision. The 3 parcels are on the east side of Stratler, all within the M-G-C zone. The applicant wants to combine the 3 parcels into one. There was a previous question regarding an easement on the lot, and staff is recommending approval with the 7 ½ foot easement. The applicant will be pursuing other avenues to change the easement through the existing ordinances that are available.

Sterling Tholen, 1287 West Saxton Place, confirmed that he does have a copy of the staff's recommendations. He has submitted a letter to the Mayor regarding the issue with the 7 ½ foot easement on the side yard, and has met with all utility companies except for Utopia. He doesn't know how to get in touch with them or where they're located. Kurtis Aoki recommended looking up Utopia's contact information on the

Internet. Jeff Evans suggested going back to the person that provided the contact list and requesting telephone numbers. Mr. Tholen is trying to move the building to the north and create better parking by utilizing some of the easement area. He wants to avoid having a fence next to the building because it would be hard to maintain. A representative of Murray Power has met with Mr. Tholen and was comfortable with changing the easement.

Karen Daniels asked what was going to be built. Sterling Tholen responded that it is going to be an office and fabrication area. There will be 3000 square feet of office space on two levels, and 8000 square feet of fabrication area.

Jim Harland asked if Mr. Tholen had a tenant lined up. Mr. Tholen responded that he does have a tenant.

Ken Goodrich, 5780 South 300 West, indicated that he is the tenant. Jeff Evans asked Mr. Goodrich what type of work will be done at this location. Mr. Goodrich responded that they do sheet metal for roofing and custom architectural projects.

There were no public comments related to this item.

Chad Wilkinson stated that in this instance the panel is acting as a recommendation body to the Mayor, and staff has an additional statement that they would like included in the recommendation. Staff is advising to revise the easement, subject to review and approval by the City Engineer, the Mayor, and the affected utility companies as outlined under City Ordinance. This statement should be added as a condition. Mr. Wilkinson provided a copy of the statement to Mr. Tholen.

Tim Tingey stated that he has discussed this condition with G.L. Critchfield in the attorney's office. This condition should help resolve the issues related to the easement. Under the Code, if all parties are comfortable with the recommendation, the issues can be resolved by this process.

Sterling Tholen confirmed that he read and understood this new condition. He stated that the problem with the amended plat is the easements that run through the property. The easements have existed for some time but nobody knows what they're for, and the building to the north was built on top of the easement. There are two easements in question, one running north/south and one running east/west. Mr. Tholen has talked to Rocky Mountain Power about their poles, and the power company has a 10-year plan to move the existing poles, raise them higher, and install larger power transmission lines.

Chad Wilkinson read the recommendation into the record. ***Condition #5: Recommend to revise easement subject to review and approval by the City Engineer and Mayor and the affected utility companies as outlined under City Ordinance.***

Jeff Evans stated for the record that the applicant did agree to Condition #5.

Karen Daniels made a motion to grant preliminary and final approval for amendment to the Stratler Subdivision, to combine 3 separate parcels into 1 lot, for the properties

located 5935, 5941 and 5947 South Stratler Street, subject to the following conditions and including Condition 5, which was previously read into the record:

1. Meet the requirements of the Murray City Engineer for the frontage improvements sidewalk and repairing any damaged curb and gutter and the recording of the plat with the Salt Lake County Recorder.
2. Show utility easements on all of the lots to meet the subdivision ordinance regulations.
3. The project shall meet all Fire, Water and Sewer Department requirements.
4. The applicant shall meet the requirements of Rocky Mountain Power for the utility easement at the east side of the property.
5. Easement subject to review and approval by the City Engineer and Mayor and the affected utility companies as outlined under City Ordinance.

Jeff Evans suggested that Karen Daniels add to her motion that the commission sends recommendation for approval to the Mayor. Ms. Daniels added this to her motion.

Seconded by Tim Taylor.

Call vote recorded by Tim Tingey.

A Ms. Daniels
A Mr. Taylor
A Mr. Black
A Mr. Evans
A Mr. Harland
A Mr. Aoki

Motion passed, 6-0.

Meeting adjourned.

B. Tim Tingey
Director of Community & Economic Development